IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.719/2000

Iqbal & Anr.

Versus

State & Anr.

DATE OF ORDER :: 03/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. N.A. Naqvi, for petitioner
None present for respondent

***

Instant petition is directed against the order dated 2nd March, 1998 whereby learned Judge took cognizance of offence U/s 420, IPC, against accused-petitioners – against which revision petition was preferred that too has been dismissed on 4th August, 2000.

Complainant-respondent No.2 Gajendra Kumar Shah lodged a written report that when he was in search of piece of land, one Iqbal came in his contact and introduced him with his maternal uncle Asgar and on their advice, he paid part payment of Rs.1 lac to the petitioners and agreement was executed in 1993, but later on inquiry, it revealed that they are not owner of the land in question and have dishonestly induced him to purchase the land and have fraudulently took money from him of Rs.1 lac. The Police after investigation submitted FR observing that it is a matter of civil nature and also observed that land belongs to one of accused-petitioners Asgar.

At this stage, the complainant filed protest petition and after recording their statements u/ss.200 & 202 Cr.P.C., learned Magistrate disagreed with the negative Final Report and took cognizance of offence U/s 420, IPC against accused-petitioners – against which revision petition was preferred which has been dismissed. The offences against which cognizance was taken by learned trial Judge is not disputed that these are compoundable offence and the complainant has also filed civil suit for recovery of the said amount in which compromise has been arrived at between the parties and settlement was made on making payment of Rs.1,75,000/- to the complainant and which has been recorded in the order-sheet of 5th December, 2002 in Execution Application No.1/02 pending in the Court of Additional District Judge, Jhunjhunu. It appears that full and final payement was made by the accused-petitioners and there was a settlement arrived at between the parties in which it was also observed that criminal case pending at the behest of complainant-respondent will also be withdrawn by them.

On last several occasions, when the matter was listed before this court, no one appeared on behalf of respondent No.2.

Under the direction of this court, petitioner filed compromise application in which compromise has been arrived at and so also the order by which payment of Rs.1,75,000/- was received by complainant-respondent Gajendra Kumar Shah. Since

final settlement has been arrived at between the parties and full payment has been made by petitioners, no purpose will be served in the facts of instant case to prosecute the petitioners any further, particularly, when these are compoundable offences.

Consequently, the misc. petition stands allowed. The orders of learned trial Judge taking cognizance against accused-petitioners dated 2nd March, 1998 and so also of Court of Revision dated 4th August, 2000 are hereby quashed and set aside. Record be sent back to trial court forthwith.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.